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1995/07/09

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EXCISE

O 092033Z JUL 95
FM SECSTATE WASHDC
TO AMEMBASSY BEIJING IMMEDIATE

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DEPARTMENT OF STATE IM/IPS/CR/IR SV Date: 5/27/97
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C O N F I D E N T I A L STATE 164156
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FOR A/DCM SILVER FROM EAP/CM STANTON ACTING

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. (U) THIS IS O-I NO. 124, JULY 9, 1995.
2. (C) FOR HALLFORD/SILVER FROM STANTON. ESPIONAGE?
READERS BACK HERE HAVE NOTED THAT WHILE THE CHINESE TOLD
US THAT HARRY WU HAD BEEN CHARGED INTER ALIA WITH
"STEALING STATE SECRETS," THE XINHUA REPORTS OF THE
ARREST STATED (IN ENGLISH AT LEAST) THAT WU HAS BEEN
CHARGED WITH "ESPIONAGE." WHILE THERE IS ARGUABLY NO
DIFFERENCE IN MEANING BETWEEN THE TWO, WE WANTED TO KNOW

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FOR SURE WHETHER, IN CHINESE AND UNDER CHINESE LAW, THE
TWO ALLEGED CRIMES ARE THE SAME AND THEREFORE ALSO
WHETHER THEY CARRY THE SAME PENALTIES. ANY CLARIFICATION
YOU CAN PROVIDE WOULD BE APPRECIATED.

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3. (C) FOR HALLFORD/SILVER FROM STANTON. THE LEGAL PROCESS. OUR LEGAL OFFICE HAS BEEN ASKED TO WRITE A PAPER ON MONDAY ON THE LEGAL PROCESS HARRY NOW FACES UNDER CHINESE LAW. SINCE SOME OF OUR QILOU LINGDAOREN ARE LUSHI, INCLUDING THE GUOWUQING, WE HAVE RECEIVED RATHER DETAILED QUESTIONS ABOUT THE LEGAL PROCESS NOW CONFRONTING WU, INCLUDING THE ISSUE OF LEGAL REPRESENTATION. YOUR DIANBAO, FOR EXAMPLE, INSPIRED QUESTIONS ABOUT WHY CAN'T HARRY HAVE AN AMERICAN LAWYER. THE INITIAL VIEW WAS THAT, WHILE OUR CONSULAR AGREEMENT GUARANTEES LEGAL REPRESENTATION, IT IS SILENT ON THE ISSUE OF WHO THE LEGAL COUNSEL WILL BE AND THEREFORE CHINESE LAW IS DETERMINING -- I.E., THE COUNSEL WILL HAVE TO BE CHINESE. THIS IS THE USUAL PRACTICE IN MOST COUNTRIES. ANY INFORMATION YOU MIGHT HAVE ON SUCH LEGAL ISSUES WOULD BE APPRECIATED, INCLUDING ANY INFORMATION ON OPTIONS AVAILABLE IN SENTENCING OR EXPELLING WU.

4. (C) LEGAL PROCESS CONT. ANOTHER SPECIFIC INQUIRY CONCERNED THE SENTENCE IN ARTURO'S CABLE STATING THAT WE WOULD BE ALLOWED ACCESS "FOLLOWING APPROPRIATE NOTIFICATION TO THE BUREAU OF PUBLIC SECURITY." QILOU WANTED TO KNOW WHO DOES THE NOTIFYING, THE EMBASSY OR THE MFA? THE NSC WANTED TO KNOW, IS IT THE MINISTRY OF PUBLIC SECURITY OR, AS THE CABLE INDICATED, THE BUREAU OF PUBLIC SECURITY. SINCE YOUR CABLE REFERRED TO WU'S
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ARREST, WE ALSO HAVE BEEN ASKED WHETHER THERE IS A LEGAL DIFFERENCE BETWEEN BEING DETAINED, ARRESTED, AND CHARGED. PRACTICALLY SPEAKING, IT WOULD APPEAR THAT HE HAS BEEN UNDER A FORM OF ARREST SINCE JUNE 19. IN CHINA, HOWEVER, THIS MAY NOT BE THE CASE. AS YOU CAN SEE, EVERY WORD IS BEING EXAMINED.

5. (U) FOR HALLFORD/SILVER FROM STANTON. PRESS GUIDANCE. THE FOLLOWING IS THE PRESS GUIDANCE WE PREPARED ON SATURDAY MORNING. ANYTHING BEYOND THIS THAT OUR FAYANREN MAY HAVE SAID DID NOT COME FROM THE DESK. JUST SO YOU KNOW.

BEGIN TEXT:

Q: CAN YOU CONFIRM PRESS REPORTS THAT HUMAN RIGHTS ACTIVIST HARRY WU HAS BEEN ARRESTED BY CHINESE AUTHORITIES AND CHARGED WITH ESPIONAGE? WHAT IS YOUR REACTION?

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- A: -- THE CHINESE FOREIGN MINISTRY ON JULY 8 INFORMED OUR CONSUL GENERAL IN BEIJING, ARTURO MACIAS, THAT HARRY WU HAS BEEN ARRESTED AND IS BEING HELD IN WUHAN, CHINA, PENDING JUDICIAL PROCESS.
- MR. WU HAS BEEN ACCUSED OF THREE CRIMES: REPEATEDLY ENTERING CHINA UNDER FALSE NAMES, STEALING CHINESE STATE SECRETS, AND DISSEMINATING THOSE SECRETS TO INSTITUTIONS AND ORGANIZATIONS OUTSIDE CHINA.

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- MR. MACIAS WAS ALSO INFORMED THAT WE WOULD BE ALLOWED CONSULAR ACCESS TO MR. WU. OUR EMBASSY IS SENDING CONSUL GENERAL MACIAS TO WUHAN THIS WEEKEND WITH THE EXPECTATION THAT A VISIT CAN TAKE PLACE AS EARLY AS MONDAY, JULY 10.
- WE VERY MUCH REGRET THE DETENTION OF MR. WU AND THE ACCUSATIONS MADE AGAINST HIM. WE WILL TAKE EVERY POSSIBLE STEP TO ENSURE THAT MR. WU'S RIGHTS UNDER THE U.S.-CHINA CONSULAR CONVENTION ARE PROTECTED.
- WE WILL BE COMMENTING FURTHER ONCE WE HAVE HAD A CHANCE TO VISIT WITH MR. WU.

END TEXT.

6. (C) FOR HALLFORD/SILVER FROM STANTON. TALKING POINTS. FYI, THE FOLLOWING ARE THE TALKING POINTS WE DID WHICH WINSTON USED WITH ZHOU WENZHONG ON SATURDAY AFTERNOON:

BEGIN POINTS:

-- EVEN THOUGH THIS IS A SATURDAY AFTERNOON, I WANTED TO CALL YOU AS SOON AS POSSIBLE TO EXPRESS, BOTH PERSONALLY AND ON BEHALF OF MY GOVERNMENT, PROFOUND REGRET AND DISAPPOINTMENT THAT THE CHINESE GOVERNMENT HAS DECIDED TO ARREST HARRY WU.

-- THE DEPARTMENT OF STATE IS ISSUING A STATEMENT TODAY
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TO CONVEY OUR REGRET PUBLICLY.

-- I HAVE SPOKEN TO THE SECRETARY OF STATE THIS MORNING.
HE IS PERSONALLY ENGAGED ON THIS ISSUE AND DEEPLY
CONCERNED OVER THE CHINESE DECISION AND ITS IMPLICATIONS.

-- I DO NOT WANT TO DEBATE NOW THE FACTS OF THE CASE
AGAINST MR. WU OR THE LEGAL MERITS OF THIS CASE.

-- THE KEY POINT I WANT TO MAKE THIS AFTERNOON IS THE
CONCERN WE SHOULD SHARE ABOUT THE DAMAGING EFFECT THIS
WILL HAVE ON OUR BILATERAL RELATIONSHIP.

-- THE ARREST OF HARRY WU WILL CAUSE A FIRESTORM OF
CRITICISM OF CHINA IN THE U.S.. CONGRESS AND IN THE
MEDIA. THERE WILL ALMOST CERTAINLY BE CALLS FOR STRONG
ACTION AGAINST CHINA. THIS WILL MAKE THE DIFFICULTIES IN
OUR BILATERAL RELATIONSHIP EVEN HARDER TO MANAGE.

-- OUR GOVERNMENTS NEED TO WORK TOGETHER TOWARD
CONSTRUCTIVE BILATERAL RELATIONS. THIS IS IN OUR
INTEREST, IN YOUR INTEREST, AND IN THE INTERESTS OF
REGIONAL AND GLOBAL STABILITY.

-- YOUR GOVERNMENT'S DECISION TO ARREST HARRY WU
THREATENS TO MAKE MR. WU THE SYMBOLIC AND SUBSTANTIVE
FOCUS OF ATTENTION IN BILATERAL RELATIONS, AN OBSTACLE TO
PROGRESS ON ALL THE PRESSING ISSUES BEFORE US.

-- I THEREFORE URGE YOUR GOVERNMENT TO PUT THIS ISSUE OUT
OF THE WAY AND TO RELEASE HARRY WU AS SOON AS POSSIBLE.

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YOUR AUTHORITIES HAVE MADE THEIR POINT BY ACCUSING HIM OF
CRIMES. NO FURTHER PURPOSE CAN BE SERVED BY FURTHER
PUNISHMENT OF MR. WU. AS LONG AS HE REMAINS IN A
CHINESE PRISON, THIS ISSUE WILL CONTINUE TO FESTER AND DO
SEVERE HARM TO OUR RELATIONS.

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-- ONCE AGAIN, THEREFORE, I URGE YOUR GOVERNMENT TO MOVE TO RESOLVE THIS CASE QUICKLY.

END POINTS.

7. FOR HALLFORD/SILVER FROM STANTON. DRAFT DEMARCHE CABLE. BELOW IS THE TEXT OF THE DRAFT CABLE WE WILL BE TRYING TO CLEAR MONDAY MORNING AND THAT I HOPE WE WILL GET OUT TO YOU BY OOB TUESDAY, YOUR TIME. ANY SUGGESTIONS YOU HAVE WOULD OF COURSE BE WELCOME.

BEGIN TEXT:

SUBJECT: DEMARCHE IN RESPONSE TO THE ARREST OF HARRY WU

REF: A) BEIJING 29570 (NOTAL), B) BEIJING 29560 (NOTAL)

1. CONFIDENTIAL - ENTIRE TEXT.

2. WE VERY MUCH REGRET THAT THE CHINESE AUTHORITIES HAVE DECIDED TO ARREST HARRY WU FOR ALLEGED CRIMES (REF A). WE WILL TAKE EVERY POSSIBLE STEP TO ENSURE THAT MR. WU'S RIGHTS UNDER THE U.S.-CHINA CONSULAR CONVENTION ARE PROTECTED, AND TO URGE THE CHINESE GOVERNMENT TO RELEASE HIM AS SOON AS POSSIBLE. THE DEMARCHES WHICH FOLLOW ARE
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AIMED AT UNDERLINING TO THE CHINESE GOVERNMENT, DIRECTLY AND THROUGH FRIENDLY CAPITALS, THAT THE CONTINUED IMPRISONMENT OF HARRY WU DOES SERIOUS DAMAGE TO BILATERAL RELATIONS BETWEEN THE U.S. AND CHINA.

3. ACTION REQUEST FOR BEIJING: WE APPRECIATE EMBASSY BEIJING'S CONTINUING ACTIVE EFFORTS ON THE HARRY WU CASE, WHICH HAVE FINALLY RESULTED IN CHINESE AGREEMENT TO ALLOW US CONSULAR ACCESS TO MR. WU. AT THE EARLIEST OPPORTUNITY AND AT THE HIGHEST AVAILABLE LEVEL, CHARGE IS REQUESTED TO MAKE THE FOLLOWING POINTS TO THE CHINESE GOVERNMENT:

BEGIN POINTS:

-- WE PROFOUNDLY REGRET THE DECISION OF THE CHINESE AUTHORITIES TO ARREST HARRY WU. NOW THAT WE HAVE FINALLY RECEIVED -- AS REQUIRED BY OUR BILATERAL CONSULAR AGREEMENT -- CONSULAR ACCESS TO MR. WU. WE ASK FOR YOUR COOPERATION IN ENSURING FREQUENT AND CONTINUED ACCESS.

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-- WE ARE PARTICULARLY CONCERNED ABOUT THE HEALTH OF MR. WU AND ENSURING THAT HE HAS ADEQUATE MEDICAL CARE AND STRONG LEGAL COUNSEL. AMERICAN PUBLIC OPINION IS CLEAR ON THIS ISSUE. THERE WILL BE CLOSE ATTENTION TO HOW MR. WU IS TREATED.

-- THE ARREST OF HARRY WU HAS ALREADY ELICITED SHARP CRITICISM OF CHINA IN THE U.S. CONGRESS AND IN THE MEDIA, AND THIS IS LIKELY TO INTENSIFY. THERE WILL ALMOST CERTAINLY BE CALLS FOR STRONG ACTION AGAINST CHINA. THIS
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WILL MAKE THE DIFFICULTIES IN OUR BILATERAL RELATIONSHIP EVEN HARDER TO MANAGE.

-- OUR GOVERNMENTS NEED TO WORK TOGETHER TOWARD CONSTRUCTIVE BILATERAL RELATIONS. THIS IS IN OUR MUTUAL INTERESTS AND IN THE INTERESTS OF REGIONAL AND GLOBAL STABILITY.

-- YOUR GOVERNMENT'S DECISION TO ARREST HARRY WU THREATENS TO MAKE MR. WU THE SYMBOLIC AND SUBSTANTIVE FOCUS OF ATTENTION IN BILATERAL RELATIONS, AN OBSTACLE TO PROGRESS ON ALL THE PRESSING ISSUES BEFORE US.

-- WE THEREFORE URGE THE CHINESE GOVERNMENT TO PUT THIS ISSUE OUT OF THE WAY AND TO RELEASE HARRY WU AS SOON AS POSSIBLE. YOUR AUTHORITIES HAVE MADE THEIR POINT BY ACCUSING HIM OF VIOLATIONS OF YOUR LAWS. NO FURTHER PURPOSE CAN BE SERVED BY FURTHER PUNISHMENT OF MR. WU.

-- AS LONG AS HE REMAINS IN A CHINESE PRISON, THIS ISSUE WILL CONTINUE TO FESTER AND DO SEVERE HARM TO OUR RELATIONS.

END POINTS.

4. THE AFTERNOON OF JULY 7, ASSISTANT SECRETARY LORD DELIVERED SIMILAR POINTS BY PHONE TO CHINESE CHARGE ZHOU WENZHONG IN WASHINGTON, NOTING THAT THE SECRETARY WAS PERSONALLY ENGAGED ON THIS ISSUE AND DEEPLY CONCERNED OVER THE CHINESE DECISION AND ITS IMPLICATIONS. ZHOU SAID HE WOULD CONVEY THE POINTS IMMEDIATELY TO HIS

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GOVERNMENT. [REDACTED]

[REDACTED] LORD REPLIED THAT WHILE THAT MIGHT BE TRUE, THE REALITY WAS IT WOULD HAVE A SEVERE IMPACT ON THE RELATIONSHIP, ESPECIALLY WITH CONGRESS COMING BACK INTO SESSION AND THE MFN DEBATE UPON US.

5. BACKGROUND FOR OTHER ADDRESSEES. THE CHINESE FOREIGN MINISTRY ON JULY 8 INFORMED OUR CONSUL GENERAL IN BEIJING THAT THE HUMAN RIGHTS ACTIVIST HARRY WU HAS BEEN ARRESTED AND IS BEING HELD IN WUHAN, CHINA, PENDING JUDICIAL PROCESS. MR. WU HAS BEEN ACCUSED OF THREE CRIMES: REPEATEDLY ENTERING CHINA UNDER FALSE NAMES, STEALING CHINESE STATE SECRETS, AND DISSEMINATING THOSE SECRETS TO INSTITUTIONS AND ORGANIZATIONS OUTSIDE CHINA.

6. WE WERE ALSO INFORMED THAT WE WOULD BE ALLOWED CONSULAR ACCESS TO MR. WU FOLLOWING NOTIFICATION TO CHINA'S PUBLIC SECURITY AUTHORITIES. OUR EMBASSY IS SENDING THE CONSUL GENERAL TO WUHAN THIS WEEKEND WITH THE EXPECTATION THAT A VISIT CAN TAKE PLACE AS EARLY AS MONDAY, JULY 10. END BACKGROUND FOR OTHER ADDRESSEES.

7. ACTION REQUEST FOR OTHER ADDRESSEES. POSTS ARE REQUESTED TO RAISE THE FOLLOWING POINTS WITH APPROPRIATE HOST GOVERNMENT AUTHORITIES AND ASK THAT THEY RAISE THE ISSUE WITH CHINESE DIPLOMATIC REPRESENTATIVES:

BEGIN POINTS:

-- AS REPORTED IN THE MEDIA, THE WIDELY RESPECTED
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AMERICAN HUMAN RIGHTS ACTIVIST HARRY WU, WHO WAS ORIGINALLY DETAINED ON JUNE 19, HAS NOW BEEN ARRESTED BY CHINESE SECURITY AUTHORITIES AND IS BEING HELD IN WUHAN, CHINA.

-- THE CHINESE HAVE ACCUSED MR. WU OF COMMITTING THREE

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VIOLATIONS OF CHINESE LAW. REPEATEDLY ENTERING CHINA UNDER FALSE NAMES, STEALING CHINESE STATE SECRETS, AND DISSEMINATING THOSE SECRETS TO INSTITUTIONS AND ORGANIZATIONS OUTSIDE CHINA.

-- WE VERY MUCH REGRET THE CHINESE ACTION. WE EXPECT TO GAIN ACCESS TO MR. WU EARLY NEXT WEEK FOR THE FIRST TIME SINCE HIS DETENTION.

-- WHATEVER THE LEGAL MERITS OF THE CHINESE CHARGES AGAINST MR. WU, WE BELIEVE YOU WILL SHARE OUR CONCERN THAT THE ARREST OF MR. WU THREATENS TO CAUSE SERIOUS DAMAGE TO OUR BILATERAL RELATIONS BETWEEN THE UNITED STATES AND CHINA.

-- PROGRESS TOWARD CONSTRUCTIVE BILATERAL RELATIONS IS NOT ONLY IN THE INTEREST OF THE U.S. AND CHINA, BUT ALSO SERVES THE INTERESTS OF REGIONAL AND GLOBAL STABILITY.

-- WE WOULD VERY MUCH APPRECIATE YOUR ASSISTANCE IN CONTACTING APPROPRIATE CHINESE DIPLOMATIC REPRESENTATIVES IN YOUR COUNTRY AND CALLING ON THEM TO RELEASE MR. WU AS SOON AS POSSIBLE, SO THAT WE CAN PUT THIS MATTER BEHIND US.

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END POINTS AND ACTION REQUEST FOR OTHER ADDRESSEES.

8. FOR BUDAPEST AND BONN. WE BELIEVE IT WOULD BE ESPECIALLY EFFECTIVE IF HOST COUNTRY OFFICIALS RAISED THIS ISSUE DIRECTLY WITH CHINESE PRESIDENT JIANG ZEMIN DURING HIS OFFICIAL VISIT. EMBASSIES ARE REQUESTED TO MAKE THIS REQUEST WHILE DELIVERING THE ABOVE POINTS.
CHRISTOPHER

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FOR A/DCH SILVER FROM EAP/CM STANTON ACTING

E.O. 12356: DECL: OADR
TAGS: ANGT
SUBJECT: OFFICIAL-INFORMAL

1. (U) THIS IS O-I NO. 124, JULY 9, 1995.

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5. (U) FOR HALLFORD/SILVER FROM STANTON. PRESS GUIDANCE. THE FOLLOWING IS THE PRESS GUIDANCE WE PREPARED ON SATURDAY MORNING. ANYTHING BEYOND THIS THAT OUR FAYANREN MAY HAVE SAID DID NOT COME FROM THE DESK. JUST SO YOU KNOW.

BEGIN TEXT:

Q: CAN YOU CONFIRM PRESS REPORTS THAT HUMAN RIGHTS ACTIVIST HARRY WU HAS BEEN ARRESTED BY CHINESE AUTHORITIES AND CHARGED WITH ESPIONAGE? WHAT IS YOUR REACTION?

A: -- THE CHINESE FOREIGN MINISTRY ON JULY 8 INFORMED OUR CONSUL GENERAL IN BEIJING, ARTURO MACIAS, THAT HARRY WU HAS BEEN ARRESTED AND IS BEING HELD IN WUHAN, CHINA, PENDING JUDICIAL PROCESS.

-- MR. WU HAS BEEN ACCUSED OF THREE CRIMES: REPEATEDLY ENTERING CHINA UNDER FALSE NAMES, STEALING CHINESE STATE SECRETS, AND DISSEMINATING THOSE SECRETS TO INSTITUTIONS AND ORGANIZATIONS OUTSIDE CHINA.

-- MR. MACIAS WAS ALSO INFORMED THAT WE WOULD BE ALLOWED CONSULAR ACCESS TO MR. WU. OUR EMBASSY IS SENDING CONSUL GENERAL MACIAS TO WUHAN THIS WEEKEND WITH THE EXPECTATION THAT A VISIT CAN TAKE PLACE AS EARLY AS MONDAY, JULY 10.

-- WE VERY MUCH REGRET THE DETENTION OF MR. WU AND THE ACCUSATIONS MADE AGAINST HIM. WE WILL TAKE EVERY POSSIBLE STEP TO ENSURE THAT MR. WU'S RIGHTS UNDER THE U.S.-CHINA CONSULAR CONVENTION ARE PROTECTED.

-- WE WILL BE COMMENTING FURTHER ONCE WE HAVE HAD A CHANCE TO VISIT WITH MR. WU.

END TEXT.

6. []

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7. ACTION REQUEST FOR OTHER ADDRESSEES. POSTS ARE REQUESTED TO RAISE THE FOLLOWING POINTS WITH APPROPRIATE HOST GOVERNMENT AUTHORITIES AND ASK THAT THEY RAISE THE ISSUE WITH CHINESE DIPLOMATIC REPRESENTATIVES:

BEGIN POINTS:

-- AS REPORTED IN THE MEDIA, THE WIDELY RESPECTED

AMERICAN HUMAN RIGHTS ACTIVIST HARRY WU, WHO WAS ORIGINALLY DETAINED ON JUNE 19, HAS NOW BEEN ARRESTED BY CHINESE SECURITY AUTHORITIES AND IS BEING HELD IN WUHAN, CHINA.

-- THE CHINESE HAVE ACCUSED MR. WU OF COMMITTING THREE VIOLATIONS OF CHINESE LAW: REPEATEDLY ENTERING CHINA UNDER FALSE NAMES, STEALING CHINESE STATE SECRETS, AND DISSEMINATING THOSE SECRETS TO INSTITUTIONS AND ORGANIZATIONS OUTSIDE CHINA.

-- WE VERY MUCH REGRET THE CHINESE ACTION. WE EXPECT TO GAIN ACCESS TO MR. WU EARLY NEXT WEEK FOR THE FIRST TIME SINCE HIS DETENTION.

-- WHATEVER THE LEGAL MERITS OF THE CHINESE CHARGES AGAINST MR. WU, WE BELIEVE YOU WILL SHARE OUR CONCERN THAT THE ARREST OF MR. WU THREATENS TO CAUSE SERIOUS DAMAGE TO OUR BILATERAL RELATIONS BETWEEN THE UNITED STATES AND CHINA.

-- PROGRESS TOWARD CONSTRUCTIVE BILATERAL RELATIONS IS NOT ONLY IN THE INTEREST OF THE U.S. AND CHINA, BUT ALSO SERVES THE INTERESTS OF REGIONAL AND GLOBAL STABILITY.

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